

Belvedere: June 24, 2004
Jerry Butler

Corte Madera: **TO:** Transportation Authority of Marin Commissioners
Melissa Gill

Fairfax: **RE:** Continued Review of Draft Administrative Code Policy Issues and First
Lew Tremaine Reading of Ordinance by Title Only and Schedule Merit Hearing for July 22, 2004 – Agenda Item 7

Larkspur: Dear Commissioners:
Joan Lundstrom

Mill Valley: At the May 27th meeting, the Authority Board reviewed and discussed the Draft
Dick Swanson Administrative Code Ordinance 2004-02, which pertains to the bylaws, rules for proceedings, conflict of interest code, etc. for TAM. Several policy issues were discussed and resolved and other areas of the draft document were highlighted for future discussion. Attached is an updated copy of the Draft Administrative Code Ordinance 2004-02, which includes revisions agreed to at the May 27th meeting and identifies areas needing further discussion. The final Administrative Code Ordinance is scheduled to be adopted at the TAM regular meeting on July 22nd.

San Anselmo:
Peter Breen

Resolved Draft Administrative Code Issues:

San Rafael:
Al Boro

The following list briefly summarizes Draft Administrative Code sections that were discussed at the May 27th meeting by Commissioners. Changes that were agreed to have been incorporated into a revised draft. New text is underlined. Deleted text is ~~struck through~~.

Sausalito:
Amy Belser

Tiburon:
Alice Fredericks

County of Marin:
Susan Adams
Hal Brown
Steve Kinsey
Cynthia Murray
Annette Rose

- ⇒ **Section 102.1(a)(26)** – This section, concerning the definition of “Net Revenues” and whether sales tax funds should be set aside for program overruns, was deleted. Subsequent definitions were renumbered accordingly. In a related revision, the sole reference to Net Revenues in the draft (Section 103.1[a]) was replaced with “sales tax revenues.”
- ⇒ **Section 103.1(i)** – Section 103.1 lists the Powers of the Authority and Section 103.1(i) was revised to be consistent in format with the rest of the listed powers.
- ⇒ **Section 103.5** – This section, concerning what constitutes a quorum and voting requirements, was discussed and no changes were made. Staff clarified that a quorum is a majority of the Commissioners (nine), and that all actions of the Authority require a vote of the majority of the Commissioners. On the advice of counsel, it was announced that there is no legislative provision that would allow the Authority to change voting requirements. Each Commissioner will get one vote.

- ⇒ **Section 103.8** – Section 103.8 was revised to include language that the approved minutes will be archived in the principal office of the Authority and posted on the Authority’s website.
- ⇒ **Section 104.2(b)** – This section, concerning Standing Board Committees of the Authority, was discussed and no changes were made. The issue discussed was whether the Authority should continue having Executive Committee or should other committees be established, such as a Financial Committee and a Planning Committee in lieu of the Executive Committee.
- ⇒ **Section 104.5** – Section 104.5 concerns compensation issues and it was revised to clearly state that Commissioners will not be compensated for attending meetings. However, Commissioners could be compensated for necessary traveling and personal expenses incurred in the performance of a Commissioner’s duties as are authorized by the Board.

Unresolved Draft Administrative Code Issues:

The following list briefly summarizes draft code sections that were identified by Commissioners for future discussion. These sections have been highlighted in the draft document.

- ⇒ **Section 102.1(a)(19)** – The definition of “Ex Officio Member” may need to be revised as a result of the discussion concerning Ex Officio Members in Section 104.6(b).
- ⇒ **Section 103.1(l)** – This section, concerning the power of the Authority to adopt a seal, was earmarked for discussion. The issue was not identified.
- ⇒ **Section 103.4(c)** – This section was earmarked for discussion concerning an issue whether Board meetings or Standing Board Committee meetings should be specified to be held during late afternoons on working days and/or evenings.
- ⇒ **Section 104.1(a)** – A portion of this section was earmarked for discussion concerning the requirement to alternate the Chair and Vice Chair positions annually between Board of Supervisors and City and Town Council Commissioners.
- ⇒ **Section 104.2(b)(1)** – This section, concerning the membership of the Executive Committee, was discussed at the May 27th meeting. Several Commissioners raised concerns about geographic balance and specificity about who the five at-large Commissioners should be.
- ⇒ **Section 104.3(b)** – A portion of this section was earmarked for discussion concerning the role of the League of Women Voters in assisting the Authority in creating the Citizens’ Oversight Committee. However, this section should remain as is since it is based on language in the approved Transportation Sales Tax Expenditure Plan.
- ⇒ **Section 104.6(b)** – Section 104.6(b) simply allows “transportation and transit agencies and other entities interested or involved in transportation issues in the County,” such as the MCTD, GGBHTD, and Caltrans, to participate in TAM matters as Ex Officio members who can attend meetings and discuss Board matters but are not allowed to vote on actions. This section was discussed at the May 27th meeting and, from the discussion, it was clear that the Board valued the idea of Ex Officio participation in Authority discussions. There was an unresolved discussion as to whether the Ex Officio members have to be elected officials. It was the consensus that the Marin County Transit District Directors should be able to participate in

Authority discussions, and that Caltrans and Golden Gate Bridge, Highway and Transportation District staff representatives could provide valuable input to Authority discussions.

- ⇒ **Article VII, Conflict of Interest** – There was a legal question raised whether the reporting requirements for regional boards and/or local councils would be inclusive of the reporting requirements for Authority Commissioners. In other words, are multiple disclosure statements required by law to be filed for each public agency that a Commissioner is a member? Staff will answer this question at the meeting after staff confers with counsel.
- ⇒ In addition to the above unresolved issues, the Chair has asked staff to include on this list a discussion on the procedure for placing items on the Authority agenda.

Finally, at the Ross Town Council meeting on June 10, 2004, wherein the Town Council approved the Transportation Sales Tax Expenditure Plan, their action requested TAM to ensure the inclusion of specific language in the final, adopted Administrative Code that is currently contained in the draft in Section 103.1(g) regarding excluding the power of eminent domain.

Recommendation

Staff recommends that TAM: (1) review and discuss the draft Administrative Code and provide additional direction to staff, using the list of unresolved policy issues as a guide to the discussion; and (2) request the Executive Director to read the ordinance by title only and schedule a merit hearing for July 22, 2004.

Respectfully Submitted,

Craig Tackabery
Executive Director

Attachment:

1. Draft Administrative Code Ordinance 2004-02

TRANSPORTATION AUTHORITY OF MARIN

ORDINANCE 2004-02

AN ORDINANCE OF THE TRANSPORTATION AUTHORITY OF MARIN ENACTING AN ADMINISTRATIVE CODE THAT PRESCRIBES THE POWERS AND DUTIES OF THE AUTHORITY CHAIR AND VICE CHAIR, THE METHOD OF APPOINTING AUTHORITY EMPLOYEES, AND METHODS, PROCEDURES, AND SYSTEMS OF OPERATION AND MANAGEMENT OF THE AUTHORITY

SECTION 1. FINDINGS

Whereas the Transportation Authority of Marin ("TAM") does hereby find and declare the following:

- I. On March 2, 2004, the Marin County Board of Supervisors ("Board of Supervisors") created TAM by Resolution No. 2004-21, pursuant to Section 180050 of the California Public Utilities Code.
- II. As required by California Public Utilities Code Section 180051(a) and California Government Code Section 65089(a), a majority of City and Town Councils of Marin County, representing a majority of the incorporated population of Marin, have concurred on the membership of TAM and designated TAM as the Congestion Management Agency for Marin County. The governing board of TAM is composed of 16 commissioners, including the five members of the Board of Supervisors and one member from each Marin City and Town Council appointed by their respective councils.
- III. Pursuant to California Public Utilities Code Section 180105(b), TAM is required to adopt an Administrative Code by ordinance, which prescribes the powers and duties of the Chair and Vice Chair, the method of appointment of employees, and methods, procedures, and systems of operation and management of TAM.
- IV. As required by California Public Utilities Code Section 180101, the Administrative Code, attached to this ordinance and identified as "Exhibit A," includes rules for proceedings consistent with the laws of the State of California.
- V. As required by California Government Code Sections 81000 et seq., the Administrative Code, attached to this ordinance and identified as "Exhibit A," includes a conflict of interest code.
- VI. Pursuant to the California Environmental Quality Act ("CEQA") Guidelines Section 15378(b)(2), adoption of an Administrative Code ordinance does not qualify as a project subject to the requirements of CEQA.

SECTION 2. ADOPTION

Now, therefore, based on the findings in Section 1 above, the Transportation Authority of Marin does hereby ordain the adoption of the Administrative Code of the Transportation Authority of Marin attached to this ordinance and identified as "Exhibit A."

SECTION 3. EFFECTIVE DATE, PUBLICATION, AND SEVERABILITY

The Transportation Authority of Marin does hereby further ordain the following:

1. Effective Date and Publication. This ordinance shall be, and is hereby declared to be, in full force and effect on July 25, 2004, and a summary shall be published once before July 9, 2004 (15 days after its passage), with the names of the Commissioners voting for and against same, in the *Marin Independent Journal*, a newspaper of general circulation, published in the County of Marin.
2. Severability. If any term, provision, or portion of this ordinance is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining portions of this ordinance shall continue in full force and effect unless amended or modified by the County.

SECTION 4. VOTE

PASSED AND ADOPTED at a regular meeting of the Transportation Authority of Marin, on the 22nd day of July, 2004 by the following vote to-wit:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

STEVE KINSEY, CHAIR
TRANSPORTATION AUTHORITY OF MARIN

ATTEST:

Craig Tackabery
Executive Director